

Remarks

The Office Action mailed April 1, 2008 has been carefully considered.

Reconsideration and allowance of the subject application, as amended, are respectfully requested.

At the outset, Applicant would like to thank the Examiner for the indication at page 4 of the Office Action that claims 3-12, 17-21, 24-28, and 30 contain allowable subject matter.

Claims 1 and 3-30 are currently pending. Claim 2 has been cancelled. Claims 1, 3, 13, 16, 17, 19, 22, 23, 24, 29, and 30 amended to clarify the claimed subject matter and for consistency with changes made to other claims from which certain of them may depend. Support for the within claim amendments may be found at, *inter alia*, page 17, line 13 to page 22, line 10 of the Specification and in Figures 3A and 3B of the Drawings.

In making the within claim amendments, Applicant is clarifying the claimed subject matter and is not acquiescing as to the validity and/or correctness of the rejections of the subject application and/or of the characterizations of the prior art in the Office Action. The within claim amendments are not intended to, and do not result in disclaimer, waiver, and/or estoppel *vis-à-vis* claim scope and/or equivalents.

In the Office Action, the Examiner has rejected claims 1, 2, 22, 23, and 29 under 35 USC §102 as being anticipated by Ternovsky (U.S. Patent No. 7,263,109). The Examiner has also rejected claims 13 and 14 under 35 USC §102 as being anticipated by Beach (U.S. Patent No. 6,901,270), and claims 15 and 16 under 35 USC §103 as being obvious over Beach (previously cited). Applicant respectfully submits that the rejections of the claims, as amended, cannot be maintained, and should be withdrawn.

All claim limitations must be considered material in judging the patentability of the claims against the prior art. MPEP §2143.03; *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976); *In re Wilson*, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). Anticipation under 35 USC §102 requires that each and every claim limitation be identically disclosed in a single prior art reference. In determining the differences between the prior art and the claims, the question under 35 USC §103 is not whether the differences themselves would have been obvious, but whether the claimed combination of limitations, as a whole, would have been obvious. MPEP §2141.02; *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976). Rejections based on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with factual rationale to support a *prima facie* case of obviousness. In order for that reasoning and rationale to be proper, among other things, all of the claim limitations must be taught or suggested in the art relied upon by the Examiner. MPEP §2141 III; *KSR International v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007).

Ternovsky discloses clock skew compensation for a jitter buffer. Beach discloses a wireless communication technique. Suffice it to note that neither of these references, whether taken singly or in combination, can be said to disclose or suggest the specific combination of features found in Applicant's claimed invention. For example, independent claim 1, as amended, recites:

A method, comprising:

receiving a plurality of packets with audio information sent using a first timing signal; and

reproducing said audio information using a second timing signal and compensating for time differences between said first and second timing signals using a circular buffer with a variable read out location,
said circular buffer being to store said packets in buffer locations in said circular buffer corresponding to frequencies of network delays.

(Independent claim 1, as amended).

All of the other currently pending independent claims, as amended, contain the above underlined limitations of claim 1, as amended, or similar limitations. Therefore, all of the currently pending claims, as amended, contain the above underlined limitations of claim 1, as amended, or similar limitations, either directly or by

depending from one of the independent claims, as amended. 35 USC §112, fourth paragraph.

These differences between the references and Applicant's claimed invention are not merely academic. For example, although the limitations in the claims, as amended, are not limited to or bound by embodiments disclosed in the Specification, in an embodiment disclosed in the Specification, the above limitations of the claimed invention that are not disclosed or suggested in the references relied upon by the Examiner permit this embodiment to operate in a manner that is different from and advantageous compared to the technology disclosed in these references. See, e.g., page 17, line 13 to page 22, line 10 of the Specification.

Accordingly, since these advantageous features of the claimed invention are nowhere disclosed or suggested in the references relied upon by the Examiner, it is respectfully submitted that neither of the references, whether taken singly or in any combination, anticipate or render obvious the claimed invention. Therefore, it is respectfully submitted that the Examiner's rejections of claims 1, 2, 22, 23, and 29, as amended, under 35 USC §102 as being anticipated by Ternovsky, of claims 13 and 14, as amended, under 35 USC §102 as being anticipated by Beach, and of claims 15 and 16, as amended, under 35 USC §103 as being obvious over Beach cannot be maintained, and should be withdrawn.

In the event that the Examiner believes that a telephone interview would advance the prosecution of this application, the Examiner is invited to call the undersigned attorney to initiate an interview.

In the event that any fees are due or payable in connection with this submission or in this application (including any applicable extension of time for response fees) please charge them to Deposit Account No. 50-4238. Likewise, please credit any overcharges to Deposit Account No. 50-4238.

Respectfully submitted,

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